

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>MARVIN ALLEN,</b>	)	<b>CASE NO.1:15CV2090</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE CHRISTOPHER A. BOYKO</b>
	)	
<b>Vs.</b>	)	
	)	
<b>NCL AMERICA, LLC., ET AL.,</b>	)	<b><u>OPINION AND ORDER</u></b>
	)	
<b>Defendant.</b>	)	

**CHRISTOPHER A. BOYKO, J:**

This matter comes before the Court upon Defendant NCL America LLC's unopposed Motion (ECF DKT No. 52) to Dismiss Plaintiff's Third Amended Complaint. For the following reasons, the Court GRANTS Defendant's Motion to Dismiss.

On March 1, 2017, the Court granted NCL's Motion to Dismiss Counts I and II of Plaintiff's Second Amended Complaint dismissing Plaintiff's Jones Act Negligence and Unseaworthiness claims. On July 10, 2017, Plaintiff filed his Third Amended Complaint refiling his prior claims and including a fourth claim for failure to pay disability payments against newly named Defendants Cigna Corporation and Life Insurance Company of North America.

NCL moves to dismiss with prejudice Plaintiff's Jones Act Negligence and Unseaworthiness claims for the same reasons as stated in its previously filed Motion to Dismiss. According to NCL, Plaintiff's Third Amended Complaint alleges the exact same facts and claims against NCL as recited in its Second Amended Complaint which the Court found insufficient to state Jones Act Negligence and Unseaworthiness claims. Plaintiff does not oppose the Motion.

Upon review, the Court finds Plaintiff's Third Amended Complaint alleges the exact

same facts and claims at Counts I and II as his Second Amended Complaint. Therefore, because Plaintiff's Jones Act Negligence and Unseaworthiness claims are plead exactly as they were in his Second Amended Complaint, the Court holds, for the reasons fully stated in its March 1, 2017 Opinion and Order, that these same claims fail to state a claim upon which relief may be granted and dismisses them with prejudice.

IT IS SO ORDERED.

s/ Christopher A. Boyko  
CHRISTOPHER A. BOYKO  
United States District Judge

Dated: October 3, 2017